

REMARKS

In the August 15, 2005 Office Action, claims 1 and 33 have been rejected as indefinite under 35 U.S.C. §112. In particular, both claims have been rejected based on the language “creating a probabilistic model fitting said second set of solutions”. The Office Action suggests that this language is indefinite since it does not recite what the second set of solutions is fitted to. Claims 1 and 33 have been amended herein to overcome this rejection. As amended, both claims now recite “fitting said second set of solutions with a probabilistic model.” Support for this is found, for example, on page 13, lines 12-18 of the specification. As explained in that portion of the specification, a step of fitting the second set of solutions with a probabilistic model may include, for example, fitting the second set of solutions with a model that assigns a probability distribution to the members of the second solution set. Other particular examples of performing this step are also contemplated, as discussed in the specification. It is submitted that this step satisfies the requirements of 35 U.S.C. §112, and accordingly that this rejection should be withdrawn. Several claims that depend from either claim 1 or claim 33 have also been amended herein to reflect the newly amended language of those claims.

The August 15, 2005 Office Action has also rejected claims 33-46 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,768,973 (“the ‘973 patent”). In making this rejection, however, the Office Action references particular sections of the ‘973 patent that do not appear to exist. For example, the Office Action relies on FIG. 12 and lines 33-50 of col. 10 of the ‘973 patent to disclose particular claimed elements. The ‘973 patent, however, does not include a FIG. 12 or a col. 10. To resolve the apparent inconsistency of the Office Action’s

interpretation of the '973 patent, a phone conference was conducted on September 13, 2005 with the Examiner. During that phone conference, the Examiner agreed that there was some confusion regarding the disclosure of the '973 patent, and that the reference did not disclose some of the elements it is cited for in the August 15, 2005 Office Action. The Examiner accordingly agreed to remove the anticipation rejection over the '973 patent. As a result, claims 33-46 were indicated to be allowable during the September 13, 2005 phone conference. The Applicant's undersigned attorney is grateful to the Examiner for the consideration and courtesy he showed during the phone conference.

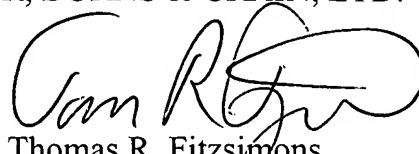
Finally, a First Supplemental Information Disclosure Statement (IDS) is being submitted herewith with the required fee under 37 C.F.R. §1.17(p). It is respectfully requested that the Examiner consider the references listed on the IDS and make the references of record in the application.

In conclusion, it is submitted that all claims in their current form are suitable for allowance. If there are issues that remain for consideration before a Notice of Allowance can be granted, the Applicant's undersigned attorney respectfully requests the favor of a phone conference to discuss the same.

Respectfully submitted,

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